IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.41457-M of 2006
Date of Decision:- 08.02.2007

Jaswinder Singh ....Petitioner(s)

through
Mr.K.S.Boparai, Advocate.

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

In this petition under Section 482 Cr.P.C., the petitioner seeks quashing of F.I.R.No.389 dated 16.12.2000 under Section 406, 498-A IPC registered at Police Station Sadar, District Ludhiana qua the petitioner.

The facts may be briefly noticed.

The petitioner is elder brother of Balwinder Singh who was married to the complainant (respondent No.2) on 19.7.1992. Petitioner's brother Balwinder Singh before and after his marriage, has been residing at Khanna, District Ludhiana. His wife-the complainant (respondent No.2) also joined and stayed with him at Khanna only. Four children were born out of the wedlock i.e. two daughters (Gurpreet Kaur and Rattandeep Kaur) and two sons (Jagjot Singh and Prabhjot Singh).

It is the admitted case of the parties that the petitioner along with his family has been residing in District Nellore in Andhra Pradesh much before the marriage between the petitioner's brother and the complainant.

The usual matrimonial chorus between the complainant-wife and her husband led to registration of the impugned F.I.R. in which it is averred that the complainant was being maltreated and physically tortured for not bringing dowry articles like telephone, refrigerator and scooter etc. These allegations are levelled not only against the husband but also against his several family members. As regard to the petitioner, it is alleged that "whenever he came to Khanna they in connivance with accused Baljit Singh used to induce Balwinder Singh to demand more dowry articles and they also put pressure to me to bring more dowry articles."

Notice of motion was issued and in response thereto the complainant-Harjinder Kaur has been duly served. No one, however, appears on her behalf.

The State of Punjab has filed its reply by way of affidavit of Manjit Singh Dy.S.P.(Rural), Ludhiana. In the said affidavit also, the only allegation levelled against the petitioner is that as and when he used to come from Andhra Pradesh to Khanna, he used to connive with his brother, namely, the husband of the petitioner to pressurise the complainant to bring more dowry articles.

As may be noticed from the impugned F.I.R.itself, the allegations against the petitioner are totally vague and wild. No specific instance of either petitioner's joining hands with the husband of the complainant and/or demanding dowry on his own, has been disclosed. No such incident has been traced out by the police during the course of investigation also. In the charge-sheet which has already been presented in Court or in the reply also, no specific incriminating material/evidence collected during the course of investigation which may suggest the

petitioner's complicity, has been disclosed.

The fact that the petitioner along with his family is living at a far away place, i.e. in the State of Andhra Pradesh, is also not denied.

It is a matter of common knowledge that as and when an unfortunate matrimonial dispute crops up, there is a general tendency to widen the net and implicate all the nears and dears. The present case too is no exception.

From the above-discussion, there appears to be no doubt that the continuation of the impugned criminal proceedings against the petitioner,is an exercise in futility and an abuse of process of law.

Consequently, this petition is allowed; the impugned F.I.R.No.389 dated 16.12.2000 under Section 406, 498-A IPC registered at Police Station Sadar, District Ludhiana, and all the subsequent proceedings arising therefrom, so far as the same pertain to the petitioner, are hereby quashed.

February 08, 2007 **(SURYA KANT)**
poonam **JUDGE**